

Assembly Bill No. 878

CHAPTER 686

An act to amend Section 7125 of the Business and Professions Code, relating to contractors.

[Approved by Governor October 9, 2011. Filed with
Secretary of State October 9, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 878, Bill Berryhill. Contractors: workers' compensation insurance.

Existing law, the Contractors' State License Law, provides for the licensing and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. Existing law authorizes the board to appoint a registrar of contractors and requires a workers' compensation insurer to report to the registrar specified information regarding a licensee's workers' compensation policy.

This bill would, additionally, require a workers' compensation insurer to report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer if the insurer has completed a premium audit or investigation, a material misrepresentation has been made by the insured that results in financial harm to the insurer, and no reimbursement has been paid by the insured to the insurer. The bill would provide that that information is not subject to the California Public Records Act. The bill would also provide that a willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar against the licensee.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The people of the State of California do enact as follows:

SECTION 1. Section 7125 of the Business and Professions Code, as amended by Section 1 of Chapter 423 of the Statutes of 2010, is amended to read:

7125. (a) Except as provided in subdivision (b), the board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. A Certificate of Workers'

Compensation Insurance shall be issued and filed, electronically or otherwise, by one or more insurers duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to ensure compliance with this section.

(b) This section does not apply to an applicant or licensee who meets both of the following conditions:

(1) Has no employees provided that he or she files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

(2) Does not hold a C-39 license, as defined in Section 832.39 of Title 16 of the California Code of Regulations.

(c) No Certificate of Workers' Compensation Insurance, Certification of Self-Insurance, or exemption certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) (1) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date if applicable.

(2) A workers' compensation insurer shall also report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer if all of the following conditions are met:

(A) The insurer has completed a premium audit or investigation.

(B) A material misrepresentation has been made by the insured that results in financial harm to the insurer.

(C) No reimbursement has been paid by the insured to the insurer.

(3) Willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar against the licensee.

(e) (1) For any license that, on January 1, 2011, is active and includes a C-39 classification in addition to any other classification, the registrar shall, in lieu of the automatic license suspension otherwise required under this article, remove the C-39 classification from the license unless a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance is received by the registrar.

(2) For any licensee whose license, after January 1, 2011, is active and has had the C-39 classification removed as provided in paragraph (1), and who is found by the registrar to have employees and to lack a valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, that license shall be automatically suspended as required under this article.

(f) The information reported pursuant to paragraph (2) of subdivision (d) shall be confidential, and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(g) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 2. Section 7125 of the Business and Professions Code, as amended by Section 2 of Chapter 423 of the Statutes of 2010, is amended to read:

7125. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance. A Certificate of Workers' Compensation Insurance shall be issued and filed, electronically or otherwise, by one or more insurers duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to ensure compliance with this section.

(b) This section does not apply to an applicant or licensee who has no employees provided that he or she files a statement with the board on a form prescribed by the registrar prior to the issuance, reinstatement, reactivation, or continued maintenance of a license, certifying that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California or is not otherwise required to provide for workers' compensation insurance coverage under California law.

(c) No Certificate of Workers' Compensation Insurance, Certification of Self-Insurance, or exemption certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) (1) The insurer, including the State Compensation Insurance Fund, shall report to the registrar the following information for any policy required under this section: name, license number, policy number, dates that coverage is scheduled to commence and lapse, and cancellation date, if applicable.

(2) A workers' compensation insurer shall also report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer if all of the following conditions are met:

(A) The insurer has completed a premium audit or investigation.

(B) A material misrepresentation has been made by the insured that results in financial harm to the insurer.

(C) No reimbursement has been paid by the insured to the insurer.

(3) Willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action by the registrar against the licensee.

(e) The information reported pursuant to paragraph (2) of subdivision (d) shall be confidential, and shall be exempt from disclosure under the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(f) This section shall become operative on January 1, 2013.

SEC. 3. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 7125 of the Business and Professions Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the Contractors' State License Board to fully implement the Contractors' State License Law, it is imperative to protect the interests of those persons submitting information to the board to ensure that any personal or sensitive business information that this act requires those persons to submit is protected as confidential information.